

02.05.2023  
Court No. 19  
Item 89  
CP

WPA No. 18145 of 2022

Abujafar Molla & ors.  
Vs.  
The State of West Bengal & Ors.

Mr. Mohinoor Rahaman  
Ms. Maria Rahaman  
Ms. Iqra Rahaman

... for the petitioners.

Mr. Himadri Sikhar Chakraborty  
Ms. Susnita Saha

... for the State.

Despite service, none appears on behalf of the respondent nos. 5 to 10.

As this court is not inclined to pass any mandatory directions as prayed for, but deems it fit to relegate the matter to the permission granting authority, this writ petition is taken up in their absence.

The petitioners allege that the respondent nos. 6 to 10 had started raising an unauthorized construction on L.R. Plot Nos. 373 and 374 of Mouza – Swetpur, without any permission from the Pifa Gram Panchayat.

Learned advocate for the State respondents has produced an instruction obtained from the Block Development Officer, Basirhat – I Development Block. It appears that the panchayat authorities have already intervened and issued a ‘stop work notice’ to

the respondent nos. 6 to 10. Further, the panchayat authorities have already asked the said respondents to appear before the authorities with all their legitimate documents. As per the records of the panchayat office, no permission in respect of such construction had been granted. The report is taken on record.

As there is already a, prima facie, finding by the panchayat authorities that no permission to construct had been given to the respondent nos. 6 to 10, the writ petition is disposed of with a direction upon the Pifa Gram Panchayat to consider the representation of the petitioner which is annexure P-5, at page 32 of the writ petition, and dispose of the same in accordance with law. While doing so, the authorities will follow the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent nos. 6 to 10. An advance notice of the inspection shall be served upon the petitioners and the respondent nos. 6 to 10 and on all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.

- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.
- c) A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties.
- e) A hearing shall be given to the petitioners and the respondent nos. 6 to 10. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by either party, will be decided.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of Section 23(5) of the West Bengal Panchayat Act.

The court has not gone into the merits of the claims.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The disputes with regard to title, possession and ownership and further allegation of forceful dispossession etc., shall not be decided by the panchayat authorities.

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

**(Shampa Sarkar, J.)**